

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS**

JACK BAILEY, JR.,
Plaintiff,

VS.

TWIN EAGLE SAND LOGISTICS, LLC
Defendant.

§
§
§
§
§
§
§
§
§
§

CAUSE NO. 5:21-cv-00658

PLAINTIFF’S ORIGINAL COMPLAINT

TO THE HONORABLE JUDGE OF SAID COURT:

NOW COMES JACK BAILEY, JR. (“Plaintiff”) files this **PLAINTIFF’S ORIGINAL COMPLAINT**, against **TWIN EAGLE SAND LOGISTICS, LLC** (“Defendant”), and in support hereof, shows the following:

I. DISCOVERY

1. Plaintiff requests a Discovery Plan pursuant to approval of the Joint Discovery Case Management Plan request for approval by the Honorable United States District Judge in this case.

II. PARTIES

2. Plaintiff worked for Twin Eagle Sand Logistics in Floresville, Wilson County, Texas. He was discriminated against based on his disability, in violation of the Americans with Disabilities Act of 1990 “ADA”, and was discriminated based on his Age (over 40), in violation of the Age Discrimination in Employment Act, and Texas Rehabilitation Act, and he was discriminated based on his Race (African American) and was wrongfully terminated in violation of Title VII of the Civil Rights Act of 1964 for the reasons stated in this complaint and his EEOC Charge of Discrimination, attached and incorporated by reference here in as “Exhibit A”. The events and omissions which are the basis of this lawsuit occurred in Wilson County, Texas.

3. Defendant is a business “Twin Eagle Sand Logistics, LLC” doing business as an entity in Wilson County, Texas, or operating as an entity doing business within this judicial district. Defendant may be served with process at 9377 County RD 128, Floresville, Texas 78114.

III. JURISDICTION AND VENUE

4. Plaintiff seeks damages in excess of the minimum jurisdictional limit of this Court.

5. Venue is proper in the Western District of Texas, because all or a substantial part of the events or omissions giving rise to Plaintiff’s claims occurred in Floresville, Wilson County, Texas. Federal jurisdiction is proper because there is a federal question under Title VII of the Civil Rights Act of 1964 and federal discrimination issues arise under the EEOC. Venue is therefore proper in Federal Court.

IV. CONDITIONS PRECEDENT TO SUIT

6. Plaintiff has complied with all the prerequisites to an action under Title VII and other applicable acts.

7. All procedural requirements have been met and are fully set forth below.

8. Plaintiff timely filed a charge for the discrimination alleged in this complaint with the Equal Employment Opportunity Commission.

9. Plaintiff received an Equal Employment Opportunity Commission Right to Sue letter, permitting Plaintiff the right to institute this action within 90 days of the receipt of notification.

10. Plaintiff filed this action within the 90 days of the receipt of Notice of Right to Sue.

11. All conditions precedent to all other causes of action asserted by Plaintiff have been satisfied.

V. FACTS

1. Jack Bailey, Jr., Plaintiff was an employee for Defendant, Twin Eagle Sand Logistics, LLC, hired as a TransLoader, and experienced continuous and severe discriminatory actions based on his Race (Black), Age (56), and Disability.

2. Beginning on May 2018 and continuing until his wrongful termination, Mr. Jack Bailey, Jr. was subjected to discrimination and adverse employment action by employees of Twin Eagle Sand Logistics, LLC. He was treated unfavorably, subjected to hostile work environment, targeted for his Race (Black), discriminated for his disability in violation of the Americans with Disabilities Act of 1990, discriminated for his Age, in violation of the Age Discrimination in Employment Act of 1967, and wrongfully terminated in violation of Title VII of the Civil Rights Act of 1964. He provided evidence to EEOC demonstrating that the reasons given by Twin Eagle Sand Logistics, LLC for his termination were false.

3. Jack Bailey, Jr. is a disabled individual who had two separate surgeries and provided notice to his supervisors for the company including Mr. Hildebrand, as well as to the Human Resources Representatives, Mr. Eric Guzman, and Mr. Chris Taylor. His company discriminated against him due to his disability and failed to provide reasonable accommodations prior to his wrongful termination. Instead of providing reasonable accommodation for Mr. Bailey to continue working, Mr. Guzman and Mr. Taylor imposed that Mr. Bailey should have a full medical release from the doctor and denied him the possibility to return to work. They stated that the company did not offer any “light duty” work. However, the Defendant, Twin Eagle Sand Logistics, LLC, did offer “light duty” tasks to other younger (under 40s) and non-Black employees who also underwent medical procedures. Mr. Bailey alleges that Twin Eagle Sand also violated the Family Medical Leave Act “FMLA”.

4. In August 2019, a corporate representative, Ms. Maria Mendoza, during a visit to Twin Eagle Sand Logistics, LLC stated: “hard work will be rewarded and failure to comply will not”, in reference to pay raises. Since his employment with Twin Eagle Sand Logistics, LLC, Mr. Jack Bailey had an impeccable record; he always arrived on time to work, regardless of the 100 miles distance he daily traveled from his home to the job site; on several occasions he worked up to 3 extra hours per day to help cover shifts of other employees that did not show up for work; he displayed an exemplary work ethic and performance, going above and beyond to successfully complete his duties; he was praised in his job evaluation, but still he was not awarded a raise by the Defendant, Twin Eagle Sand Logistics, LLC. On the other hand, other younger and non-Black employees who had been reprimanded, damaged company’s equipment, did not show up for work on time, returned late from lunch, played video games or fell asleep in the car during their work shifts; they received pay raises. Specifically, Miguel Fuentes, was an employee who constantly showed up late to work, was written up on a few occasions, created damages to the Kubota machine and was caught lying about damages to equipment, slept during worktime, downloaded external files unrelated to work during his shift, and never worked additional hours, was granted a pay raise.

5. On or about August 30, 2019, Mr. Jack Bailey was wrongfully terminated by Twin Eagle Sand Logistics, LLC. No reason was provided to this date, and he suffered an undeniable discrimination because of this Race (Black), Age (56), and Disability from May 2018 until the date of his employment termination. Mr. Bailey was the oldest employee at that job site and the only African American employee. Other employees who were non-Black and younger were treated more favorably than Mr. Bailey, and received pay raises despite their lack of work ethics and poor performance.

7. Additionally, other non-Black and younger employees that underwent medical procedures were offered options to perform lighter duties tasks by Twin Eagle Sand Logistics, LLC. Specifically, Brian Lankford who was initially hired to be a TransLoader, was authorized to go back to work without a full medical release from his doctor and was transferred to the scale house without any experience or training to that area, but Twin Eagle Sand Logistics, LLC created accommodations so that he could perform lighter duties and continue working. Also, Diana Garcia who was a scale house operator was allowed to continue working in lighter duties, with a broken foot, and without a full medical release from her doctor. In addition, another TransLoader, Billy Holley, was allowed to perform light duties for two weeks when he suffered from heat exhaustion.

8. Plaintiff alleges that he was discriminated against based upon his Race (Black, African American), Age (56) and Disability “ADA” and Texas Rehab Act. Mr. Bailey was treated unfavorably, threatened to be fired for preposterous reasons, and suffered continued discrimination until the date of his employment termination. Other employees who were younger and non-Black received appropriate accommodations for their needs, a fair treatment at workplace, and pay raises despite their lower/ poor performance . The above acts constituted unlawful discrimination in violation of the following Acts: Americans with Disabilities Act of 1990, Age Discrimination Act of 1967, and Title VII of the Civil Rights Act of 1964. His EEO Charge of Discrimination is attached and hereby incorporated by reference.

VI. CAUSES OF ACTION

A. Race Discrimination under Title VII of the Civil Rights Act of 1964, 42 U.S.C. §2000e et seq. (Title VII), and the TCHRA

9. Race discrimination is prohibited by Title VII of the Civil Rights Acts of 1964 and the Texas Commission on Human Rights Act. Title VII prohibits discrimination based upon Race. Employers are required to make all employment decisions including the decision to hire, fire, promote, transfer and salary decisions based upon neutral business-related criteria and not upon

someone's Race.

10. Mr. Bailey alleges he was discriminated against by Twin Eagle Sand Logistics, LLC based on his Race (Black, African American). Mr. Bailey intends to show that he : (1.) is a member of a protected class; (2.) that she was performing his job satisfactorily; (3.) that he suffered an adverse employment action; and (4.) that she was terminated because of his Race. He alleges other non-Black employees received preferential treatment relative to him and were not subjected to discrimination.

11. Mr. Jack Bailey, Jr. was subjected to unlawful race-based discrimination by his employer and its employees. Defendant, by and through their agents and employees, intentionally engaged in the aforementioned practices of discrimination made unlawful by the Title VII and the Texas Labor Code, causing damages, as supported by the accompanying facts, statements and exhibits.

12. Defendant, by and through its agents and employees, has intentionally engaged in the practices of discrimination made unlawful in violation of Title VII and Chapter 21 of the Texas Labor Code.

B. Age Discrimination Under the Age Discrimination in Employment “ADEA”

13. Mr. Jack Bailey alleges he was discriminated against by Twin Eagle Sand Logistics, LLC based on his Age (56) in violation of the Age Discrimination in Employment Act of 1967, Mr. Bailey alleges Twin Eagle Sand Logistics, LLC violated this law.

C. Disability Discrimination Under the Americans with Disabilities Act and Texas Rehabilitation Act

14. Mr. Bailey Jack, Jr. alleges he was also discriminated against based on his disability, and/or because he was regarded as disabled. His disability was reported to his employer. Mr. Bailey seeks damages for discrimination against him for the unfavorable treatment due to his disability

and denial for appropriate accommodations at the workplace. The continued discrimination imposed to Mr. Bailey at work caused significant economic harm, stress and emotional damage, and attorney's fees to him. Defendant, by and through its agents and employees, has intentionally engaged in the practices of discrimination made unlawful in violation of the ADA and they failed to provide reasonable accommodation to Mr. Bailey. Bailey also alleges defendant violated the Texas Rehabilitation Act.

15. Defendant Twin Eagle Sand Logistics, LLC continuously participated in discriminatory acts to Plaintiff, causing him economic and other damages. Specifically, Plaintiff continuously endured disparate treatment, as enumerated in the facts listed above, including but not limited to hostile treatment, improper accommodations, improper medical leave coverage on more than one occasion and ignoring grievances. Plaintiff was subjected to various and continuous discriminatory treatment and hostile work environment.

VII. DAMAGES

Defendant's acts and omissions have caused Plaintiff to suffer damages including past and future lost earnings (including back pay and front pay), past and future injury to reputation, and past and future mental anguish, and economic damages. Plaintiff seeks punitive damages for willful, malicious violations of law by Twin Eagle Sand Logistics, LLC, and his disparate treatment.

Plaintiff seeks recovery of these damages from Defendant.

VIII. ATTORNEY'S FEES

Defendant's acts and omissions have caused Plaintiff to incur attorney's fees and court costs. Plaintiff seeks recovery from Defendant of all attorney's fees and court costs through judgment in this court with additional contingent amounts in the event of post judgment and appellate proceedings. All conditions precedent to the recovery of attorney fees have been satisfied.

IX. JURY DEMAND

Plaintiff hereby request a jury trial and agrees to pay the appropriate fee.

X. PRAYER FOR RELIEF

For the reasons stated above, Plaintiff asks that, upon final judgment, this Court order Defendant pay to Plaintiff all damages identified above plus attorney fees, costs of court, and pre-judgment and post-judgment interest. Plaintiff also asks for such other and further relief, whether legal or equitable, to which Plaintiff may be justly entitled.

Respectfully Submitted,

/s/ Robert J. Heil III

Robert J. Heil, III, Attorney
State Bar No. 24032286
HEIL LAW FIRM
5262 S. Staples Street, Suite 300
Corpus Christi, TX 78411
Telephone: (361) 356-1277
Facsimile: (361) 238-7763
robert@heillawfirm.com
Attorney for Plaintiff, Jack Bailey